

## Federal Reserve System

## § 211.34

have commenced with the first fiscal year after the respective export trading company has been in operation for two years.

(f) *Revenues* shall include net sales revenues from exporting, importing, or third-party trade in goods by the export trading company for its own account and gross revenues derived from all other activities of the export trading company.

(g) *Subsidiary* has the same meaning as in section 2(d) of the BHC Act (12 U.S.C. 1841(d)).

(h) *Well capitalized* has the same meaning as in § 225.2(r) of Regulation Y (12 CFR 225.2(r)).

(i) *Well managed* has the same meaning as in § 225.2(s) of Regulation Y (12 CFR 225.2(s)).

### § 211.33 Investments and extensions of credit.

(a) *Amount of investments.* In accordance with the procedures of § 211.34, an eligible investor may invest no more than 5 percent of its consolidated capital and surplus in one or more export trading companies, except that an Edge or agreement corporation not engaged in banking may invest as much as 25 percent of its consolidated capital and surplus but no more than 5 percent of the consolidated capital and surplus of its parent bank holding company.

(b) *Extensions of credit—(1) Amount.* An eligible investor in an export trading company or companies may extend credit directly or indirectly to the export trading company or companies in a total amount that at no time exceeds 10 percent of the investor's consolidated capital and surplus.

(2) *Terms.* (i) An eligible investor in an export trading company may not extend credit directly or indirectly to the export trading company or any of its customers or to any other investor holding 10 percent or more of the shares of the export trading company on terms more favorable than those afforded similar borrowers in similar circumstances, and such extensions of credit shall not involve more than the normal risk of repayment or present other unfavorable features.

(ii) For the purposes of this section, an investor in an export trading com-

pany includes any affiliate of the investor.

(3) *Collateral requirements.* Covered transactions between a bank and an affiliated export trading company in which a bank holding company has invested pursuant to this subpart are subject to the collateral requirements of section 23A of the Federal Reserve Act (12 U.S.C. 371c), except where a bank issues a letter of credit or advances funds to an affiliated export trading company solely to finance the purchase of goods for which:

(i) The export trading company has a bona fide contract for the subsequent sale of the goods; and

(ii) The bank has a security interest in the goods or in the proceeds from their sale at least equal in value to the letter of credit or the advance.

### § 211.34 Procedures for filing and processing notices.

(a) *General policy.* Direct and indirect investments by eligible investors in export trading companies shall be made in accordance with the general consent or prior notice procedures contained in this section. The Board may at any time, upon notice, modify or suspend the general-consent procedures with respect to any eligible investor.

(b) *General consent—(1) Eligibility for general consent.* Subject to the other limitations of this subpart, the Board grants its general consent for any investment an export trading company:

(i) If the eligible investor is well capitalized and well managed;

(ii) In an amount equal to cash dividends received from that export trading company during the preceding 12 calendar months; or

(iii) That is acquired from an affiliate at net asset value or through a contribution of shares.

(2) *Post-investment notice.* By the end of the month following the month in which the investment is made, the investor shall provide the Board with the following information:

(i) The amount of the investment and the source of the funds with which the investment was made; and

(ii) In the case of an initial investment, a description of the activities in which the export trading company proposes to engage and projections for the

export trading company for the first year following the investment.

(c) *Filing notice*—(1) *Prior notice*. An eligible investor shall give the Board 60 days' prior written notice of any investment in an export trading company that does not qualify under the general consent procedure.

(2) *Notice of change of activities*. (i) An eligible investor shall give the Board 60 days' prior written notice of changes in the activities of an export trading company that is a subsidiary of the investor if the export trading company expands its activities beyond those described in the initial notice to include:

(A) Taking title to goods where the export trading company does not have a firm order for the sale of those goods;

(B) Product research and design;

(C) Product modification; or

(D) Activities not specifically covered by the list of activities contained in section 4(c)(14)(F)(ii) of the BHC Act (12 U.S.C. 1843(c)(14)(F)(ii)).

(ii) Such an expansion of activities shall be regarded as a proposed investment under this subpart.

(d) *Time period for Board action*. (1) A proposed investment that has not been disapproved by the Board may be made 60 days after the appropriate Federal Reserve Bank accepts the notice for processing. A proposed investment may be made before the expiration of the 60-day period if the Board notifies the investor in writing of its intention not to disapprove the investment.

(2) The Board may extend the 60-day period for an additional 30 days if the Board determines that the investor has not furnished all necessary information or that any material information furnished is substantially inaccurate. The Board may disapprove an investment if the necessary information is provided within a time insufficient to allow the Board reasonably to consider the information received.

(3) Within three days of a decision to disapprove an investment, the Board shall notify the investor in writing and state the reasons for the disapproval.

(e) *Time period for investment*. An investment in an export trading company that has not been disapproved shall be made within one year from the date of the notice not to disapprove, unless the time period is extended by the Board or

by the appropriate Federal Reserve Bank.

## Subpart D—International Lending Supervision

SOURCE: 49 FR 5592, Feb. 13, 1984, unless otherwise noted.

### § 211.41 Authority, purpose, and scope.

(a) *Authority*. This subpart is issued by the Board of Governors of the Federal Reserve System (Board) under the authority of the International Lending Supervision Act of 1983 (Pub. L. 98-181, title IX, 97 Stat. 1153) (International Lending Supervision Act); the Federal Reserve Act (12 U.S.C. 221 *et seq.*) (FRA), and the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*) (BHC Act).

(b) *Purpose and scope*. This subpart is issued in furtherance of the purposes of the International Lending Supervision Act. It applies to State banks that are members of the Federal Reserve System (State member banks); corporations organized under section 25A of the FRA (12 U.S.C. 611 through 631) (Edge Corporations); corporations operating subject to an agreement with the Board under section 25 of the FRA (12 U.S.C. 601 through 604a) (Agreement Corporations); and bank holding companies (as defined in section 2 of the BHC Act (12 U.S.C. 1841(a)) but not including a bank holding company that is a foreign banking organization as defined in § 211.21(o).

[Reg. K, 68 FR 1159, Jan. 9, 2003]

### § 211.42 Definitions.

For the purposes of this subpart:

(a) *Administrative cost* means those costs which are specifically identified with negotiating, processing and consummating the loan. These costs include, but are not necessarily limited to: legal fees; costs of preparing and processing loan documents; and an allocable portion of salaries and related benefits of employees engaged in the international lending function. No portion of supervisory and administrative expenses or other indirect expenses such as occupancy and other similar overhead costs shall be included.